

<b>AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT</b>			<b>1. CONTRACT ID CODE</b> <b>K</b>		<b>PAGE 1 OF 3</b> <b>PAGESc</b>									
<b>2. AMENDMENT/MODIFICATION NO.</b>  <b>0002</b>		<b>3. EFFECTIVE DATE</b>  <b>June 18, 1999</b>		<b>4. REQUISITION/PURCHASE REQ. NO.</b>  SCO600-99-0104/-0105/-0106		<b>5. PROJECT NO. (If applicable)</b>								
<b>6. ISSUED BY</b>  DEFENSE ENERGY SUPPORT CENTER 8725 JOHN J. KINGMAN, STE 2954 FORT BELVOIR, VA 22060-6222 BUYER/SYMBOL - J. WALKER/DFSC-BZB PHONE - (703) 767-9267 Fax - (703) 767-9269			<b>CODE</b>  SCO600		<b>7. ADMINISTERED BY (If other than Item 6)</b>  <b>CODE</b>  SCO600									
<b>8. NAME AND ADDRESS OF CONTRACTOR (NO., street,city,county,State,and ZIP Code)</b>  <div style="border: 1px solid black; height: 100px; width: 100%;"></div>					<b>9a. AMENDMENT OF SOLICITATION NO.</b>  <b>SP0600-99-R-0161</b>									
					<b>9b. DATED (SEE ITEM 11)</b>  <b>APRIL 13, 1999</b>									
					<b>10a. MODIFICATION OF CONTRACT/ORDER NO.</b>									
					<b>10b. DATED (SEE ITEM 13)</b>									
<b>11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS</b>														
<p><input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  <input type="checkbox"/> is extended, <input checked="" type="checkbox"/> is not extended</p> <p>Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning <u>  1  </u> copies of the amendment;(b) By acknowledging receipt of this amendment on each copy of the offer submitted; or(c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers.</p> <p><b>FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER.</b> If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.</p>														
<b>12. ACCOUNTING AND APPROPRIATION DATA (If required)</b>														
<b>13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</b>														
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;"></td> <td>A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.</td> </tr> <tr> <td></td> <td>B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b)</td> </tr> <tr> <td></td> <td>C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: MUTUAL AGREEMENT OF THE PARTIES</td> </tr> <tr> <td></td> <td>D. OTHER (Specify type of modification and authority)</td> </tr> </table>								A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.		B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b)		C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: MUTUAL AGREEMENT OF THE PARTIES		D. OTHER (Specify type of modification and authority)
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<b>E. IMPORTANT:</b> Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.														
<b>14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.</b>  SEE THE FOLLOWING PAGES  Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.														
<b>15A. NAME AND TITLE OF SIGNER (Type or print)</b>  BY _____ (Signature of person authorized to sign)				<b>16A. NAME OF CONTRACTING OFFICER</b> JOHN R. WALKER										
<b>15B. NAME OF CONTRACTOR/OFFEROR</b>  BY _____ (Signature of person authorized to sign)		<b>15C. DATE SIGNED</b>  _____		<b>16B. UNITED STATES OF AMERICA</b>  BY _____ (Signature of Contracting Officer)		<b>16C. DATE SIGNED</b>  _____								

1. Page A-2, Schedule Note 17 is hereby added:

"17. The maximum quantity that will be awarded through the Kinder Morgan pipeline system originating in the El Paso, TX is 112,896,000 gallons of which no more than 34,272,000 gallons can be awarded to Luke AFB."

2. Page A-38, Line Item 0501, Eielson AFB, only JP4 is acceptable for this location.

3. Page A-105, Clause M24.10.100, paragraph (b), is deleted and replaced with the following:

"(b) In the event an offeror limits his offer to individual tanker loadings of less than 235,000 barrels of any single product, the offer will be evaluated on the basis of total vessel cost prorated over the maximum quantity offered of this product."

4. The following clauses, I171.01-1 **UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES**

(JAN 1999) and I171.07 **LIQUIDATED DAMAGES - SUBCONTRACTING PLAN (JAN 1999)** are added to the solicitation:

**I171.01-1 UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (JAN 1999)**

(a) For Department of Defense contracts, this clause applies only if the contract includes a subcontracting plan incorporated under the terms of the clause at FAR 52.219-9, SMALL BUSINESS SUBCONTRACTING PLAN. It does not apply to contracts awarded based on a subcontracting plan submitted and approved under paragraph (g) of the clause at 52.219-9.

(b) **DEFINITIONS.** As used in this clause--

**Indian** means any person who is a member of any Indian tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any **Native** as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

**Indian organization** means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., Chapter 17.

**Indian-owned economic enterprise** means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership shall constitute not less than 51 percent of the enterprise.

**Indian tribe** means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

**Interested party** means a prime Contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(c) The Contractor agrees to use its best efforts to give Indian organizations and Indian-owned economic enterprises (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The Contracting Officer and the Contractor, acting in good faith, may rely on the self-certification of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the Contracting Officer has independent reason to question that status. In the event of a challenge to the self-certification of a subcontractor, the Contracting Officer shall refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), ATTN: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW, MS-334A-SIB, Washington, DC 20245. The BIA will determine the eligibility and notify the Contracting Officer. The five percent incentive payment will not be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an ineligible participant, no incentive payment will be made under the Indian Incentive Program.

(2) The Contractor may request an adjustment under the Indian Incentive Program to the following:

- (i) The estimated cost of a cost-type contract;
- (ii) The target cost of a cost-plus-incentive-fee prime contract;
- (iii) The target cost and ceiling price of a fixed-price incentive prime contract; or
- (iv) The price of a firm-fixed-price prime contract.

(3) The amount of the equitable adjustment to the prime contract shall be five percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the Indian organization or Indian-owned economic enterprise.

(4) The Contractor has the burden of proving the amount claimed and must assert its request for an adjustment prior to completion of contract performance.

**I171.01-1 (Cont'd)**

(d) The Contracting Officer, subject to the terms and conditions of the contract and availability of funds, shall authorize an incentive payment of five percent of the amount paid to the subcontractor. The Contracting Officer shall seek funding in accordance with agency procedures. The Contracting Officer's decision is final and not subject to the DISPUTES clause of this contract.

(FAR 52.226-1)

**I171.07 LIQUIDATED DAMAGES - SUBCONTRACTING PLAN (JAN 1999)**

(a) **Failure to make a good faith effort to comply with the subcontracting plan**, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled SMALL BUSINESS SUBCONTRACTING PLAN, or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled SMALL BUSINESS SUBCONTRACTING PLAN, the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies that awarded contracts covered by that commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled DISPUTES, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

(FAR 52.219-16)

**5. Page A-106, the June 1993 version of Clause M41 EVALUATION OF OFFERS - TRANSPORTATION RATES AND RELATED COSTS**

is deleted and replaced with the June 1999 version below:

**M41 EVALUATION OF OFFERS - TRANSPORTATION RATES AND RELATED COSTS (DESC JUN 1999)**

(a) Transportation rates and related costs shall be used in the evaluation of f.o.b. origin bids and proposals. The best available transportation rates and related costs in effect on or to become effective prior to the expected date of initial shipment and on file or published at the date of the bid opening or initial proposal due date shall be used in the evaluation. However, when transportation rates and related costs that cover the traffic are filed or published after the bid opening or initial proposal due date and there were no applicable rates or costs in existence on that date, these rates and costs shall be so identified and shall be used in the evaluation.

(b) For truck rates, a guaranteed traffic (GT) rate will be used in the evaluation. Where there is no GT rate, a point-to-point tender rate or SRO will be used. Where there is no GT or point-to-point tender rate on file, a state-to-state or region-to-region tender rate will be used. If none of the former rates exist for a given route, a quote will be obtained and used for evaluation. In the event that none of the former rates exist and a market survey for quotes results in no responses, a CONUS-wide tender rate will be used in evaluation.

(c) If the offeror desires to guarantee a rate other than that covered in (a) and (b) above, such rate shall be considered in the evaluation of offers and shall become a part of any resultant contract.

(d) When Government property is to be furnished and shipped by the Government under a contract to a point specified by the prospective supplier in its bid or proposal, transportation costs shall be a cost factor in the evaluation of bids or proposals.

(DESC 52.247-9F75)